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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,026	01/09/2006	Samer Ramadan	M3D.US.8	3755

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05/19/2008

EXAMINER

CHANG, AUDREY Y

ART UNIT	PAPER NUMBER
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2872

MAIL DATE	DELIVERY MODE
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05/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/564,026	RAMADAN, SAMER	
	Examiner	Art Unit	
	Audrey Y. Chang	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Remark

- This Office Action is in response to applicant's amendment filed on February 29, 2008, which has been entered into the file.
- By this amendment, the applicant has amended claims 2, 3, 6, and 7 and has newly added claims 8-10.
- Claims 1-10 remain pending in this application.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claims 8-10 are rejected under 35 U.S.C. 112, first paragraph**, as based on a disclosure which is not enabling. The 3D photo needed to be *color coded* so that the right eye image and left eye image each be coded with red or cyan color with the cited spectra match the colored filters that is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). One skilled in the art that without properly coding the right eye image and left eye image with color coding that matched red and cyan filter respectively, 3D viewing will not be enable. Also there is no such thing as "3D photo". That is to say there is no photo by itself that provide 3D view. 3D view is provided by optical illusion. .

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7 and newly added claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the patent issued to Beiser (PN. 4,290,675) in view of the patent issued to Sorensen et al (PN. 6,687,003).

Beiser teaches an *eye glasses* through which *three-dimensional image* is viewed wherein the eye glasses is comprised a *red lens* and a *cyan lens* including *complementary color filtering means*. The red lens has a *red color filtering means* having a transmittance greater than 60% with 610 nm and greater of wavelength of light, (curve 103 Figure 10) and the cyan lens has a *cyan filtering means* having a transmittance peak of greater than 60% at about 480 nm wavelength of light, (curve 102, Figure 2).

Beiser teaches that the cyan filtering means also has a transmittance of *about 50%*, (i.e. within 5% of the mark 50% as shown in Figure 10), and the transmittance tends to increase as the wavelength of light is greater than 700 nm. However this reference does not teach *explicitly* about the transmittance beyond 700 nm wavelength of light. But one skilled in the art would that the visible range of wavelength of light to human eyes is within 400 nm and 700 nm, that is to say the wavelengths beyond 700 nm is beyond the human visible range, and the transmittance concerning this range will not effect the performance of the eye glasses for viewing three-dimensional image. **Nevertheless, Sorensen et al** in the same field of endeavor teaches a viewing glasses for stereoscopic image viewing wherein the pair of glasses includes a cyan lens and a red lens wherein the transmittance for both the red and cyan filtering means are greater than 50% at wavelength 700 nm and greater, (please see Figure 14). It would then have been obvious to one skilled in the art to make the transmittance of cyan filtering means greater than 50% at 700 nm and greater wavelength for the benefit of allowing light at higher wavelengths to transmits through the lenses.

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With regard to feature concerning "viewing 3D photo printed on an inkjet printer", although these references do not teach such explicitly however they both teach the glasses is enable for viewing 3D images. This feature is therefore being considered as intended use. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Madham*, 2 USPQ2d 1647 (1987).

With regard to claims 4-5, Beiser teaches that the red lens and cyan lens form a pair of glass for viewing the color-encoded stereoscopic images, (please see column 14, line 11) this implies there is a frame for holding these red lens and cyan lens in spaced relationship. Eye-glasses usually have an arrangement for each lens to be in front of an eye of the wearer, respectively. Although these references do not teach explicitly that the red lens is in front of the wearer's left eye and the cyan lens is in front of the wearer's right eye, such modification is considered to be obvious to one skilled in the art. Since the criterion for stereoscopic viewing is for the red lens to be in front of the eye for matching the red color-coded perspective image for the eye and the cyan lens to be in front of the other eye for matching the cyan color-coded perspective image for this other eye. It would be obvious to one skilled in the art to make the red lens and cyan lens to be at proper eye for enabling the stereoscopic viewing.

With regard to claims 2-3 and 6-7, both Beiser and Sorensen et al teach transmittance curves for the red filtering means and the cyan filtering means. Although these curves may not read exactly as the numerical readings in the claimed tables, however since the red filtering means and cyan filtering taught in prior art fulfill the same functions as the claims, namely for enabling stereoscopic viewing, the minor difference in numbers therefore is considered to be obvious design choice to one skilled in the art to manipulate the subtle differences in filtering means. It does not provide novel difference for the filters with regard to the filtering means of Beiser and Sorensen et al.

With regard to newly added claim 8 concerning the "3D photo printed by an inkjet printer", these references do not teach such explicitly. However, both Beiser and Sorensen et al teach the filter lenses are for stereoscopic viewing using anaglyph scheme. Anaglyph scheme is known in the art to code the right eye and left eye image with complementary colors, (such as red and cyan), that match the complementary colors of the left eye and right eye filter lenses respectively, (please see column 1, lines 8-16 of Beiser). This means that implicitly that there should be an image medium with stereoscopic related left eye and right eye image with the proper color code to provide the stereoscopic viewing. The feature concerning "photo printed by inkjet printer" is considered to be product-by-process limitation that is not given any patentable weight for the printing photo method is well-known method for making 3D image that does not differentiate the final product from the prior art, (please see MPEP 2173.05(p)).

Response to Arguments

3. Applicant's arguments filed on February 29, 2008 have been fully considered but they are not persuasive. The newly added claims have been fully considered and are rejected for the reasons stated above.

4. Applicant's arguments which state that "the claimed combination would not produce the claimed invention because the Beiser reference is a single lens anaglyph system, whereas the present invention requires two filters" (please see remark page 7 paragraph 2), are very confusing and not making any sense. Beiser teaches explicitly that a red filter lens and a cyan filter lens are used as viewing lenses, (please see column 9, lines 24-50) for the stereoscopic viewing. Even in a single lens structure, complementary filter elements (99a and 99b, Figure 8, column 6, line 23-25) are used. It is not clear what does it means by "single lens" with respect to applicant's arguments.

5. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., cyan filter has two peaks) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification,

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limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, the cited Sorensen et al reference teaches that the cyan filter has two peaks.

6. In response to applicant's arguments concerning the filter characteristics for wavelengths between 700 nm and 780 nm, the applicant being one skilled in the art must understand even though the cited Beiser reference does not explicitly show the transmittance curve beyond 700 nm, this does not mean that the filter is "strop" at 700 nm, the filter by the materials made will have inherent transmittance beyond 700 nm. The applicant *fails* to argument the rejection based on the relied secondary reference of Sorensen et al reference that shows transmittance of the cyan filter is greater than 50% beyond 700 nm. The rejection therefore still stands.

Double Patenting

7. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

8. Applicant is advised that should claims 1-3 be found allowable, claims 8-10 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). The applicant is noted that the "3D photo printed on an inkjet printer" is inherently included in claims 1-3.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Audrey Y. Chang whose telephone number is 571-272-2309. The examiner can normally be reached on Monday-Friday (9:00-4:30), alternative Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on 571-272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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